

Assembly Bill No. 2410

Passed the Assembly May 8, 2008

Chief Clerk of the Assembly

Passed the Senate July 3, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 6603.3, 6603.5, and 6603.7 to the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 2410, Nava. Sexually violent predators.

Existing law requires, prior to release from the custody of the Department of Corrections and Rehabilitation of a person who has been convicted of certain crimes of a sexual nature, the director to refer that person to the State Department of Mental Health for evaluation if the director determines that person may be a sexually violent predator.

Under existing law, if the State Department of Mental Health determines that the person is a sexually violent predator, the department is required to forward a request for the filing of a petition to the counsel designated by the county in which the person was convicted. The law authorizes civil commitment of the person to the State Department of Mental Health as a sexually violent predator for treatment in a secure facility, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

This bill would prohibit an attorney from disclosing the name, address, telephone number, or other identifying information of a victim or witness in a sexually violent predator civil commitment proceeding, except to their staff, to opposing counsel as needed to prepare the case, or pursuant to a court order after a hearing. Willful violation of this prohibition would be a misdemeanor. If the defendant is acting as his or her own counsel, this bill would require that contact with the victim or witness be through a private investigator or otherwise restricted to protect the identity and personal information of the victim or witness.

This bill would also prohibit disclosure of a victim's identifying information that is discovered in the process of preparation for a sexually violent predator civil commitment proceeding by an agent of the Department of Corrections and Rehabilitation, Board of Parole Hearings, or the State Department of Mental Health.

This bill would also allow the court to identify the victim in all records and during all proceedings of a sexually violent predator civil commitment proceeding as Jane Doe or John Doe, as long as it is not prejudicial to either side and the jury is instructed that the victim's identity is being withheld to protect his or her privacy.

Because the bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 6603.3 is added to the Welfare and Institutions Code, to read:

6603.3. (a) (1) Except as provided in paragraph (2), no attorney may disclose or permit to be disclosed to a person subject to this article, family members of the person subject to this article, or any other person, the name, address, telephone number, or other identifying information of a victim or witness whose name is disclosed to the attorney pursuant to Section 6603 and Chapter 1 (commencing with Section 2016.010) of Part 4 of Title 4 of the Code of Civil Procedure, unless specifically permitted to do so by the court after a hearing and showing of good cause.

(2) Notwithstanding paragraph (1), an attorney may disclose or permit to be disclosed, the name, address, telephone number, or other identifying information of a victim or witness to persons employed by the attorney or to a person hired or appointed for the purpose of assisting the person subject to this article in the preparation of the case, if that disclosure is required for that preparation. Persons provided this information shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.

(3) A willful violation of this subdivision by an attorney, persons employed by an attorney, or persons appointed by the court is a misdemeanor.

(b) If the person subject to this article is acting as his or her own attorney, the court shall endeavor to protect the name, address, telephone number, or other identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.

SEC. 2. Section 6603.5 is added to the Welfare and Institutions Code, to read:

6603.5. No employee or agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of Mental Health shall disclose to any person the name, address, telephone number, or other identifying information of a person who was involved in a civil commitment hearing under this article as the victim of a sex offense except where authorized or required by law.

SEC. 3. Section 6603.7 is added to the Welfare and Institutions Code, to read:

6603.7. (a) Except as provided in Section 6603.3, the court, at the request of the victim of a sex offense relevant in a proceeding under this article, may order the identity of the victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that the order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the party petitioning for commitment under this article or the person subject to this article.

(b) If the court orders the victim to be identified as Jane Doe or John Doe pursuant to subdivision (a), and if there is a jury trial, the court shall instruct the jury at the beginning and at the end of the trial that the victim is being so identified only for the purposes of protecting his or her privacy.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor